

REMARKS

Favorable reconsideration and allowance of this application are requested.

As a procedural note, the present amendment is being filed concurrently with a formal Request for Continued Examination (RCE) under 37 CFR §1.114. Accordingly withdrawal of the "finality" of the December 2, 2008 Official Action is in order so as to allow entry and consideration of the amendments and remarks presented herewith.

1. Interview Summary

The applicants' undersigned representative appreciates the time and courtesies extended by Examiner Ruddick during the personal interview of April 6, 2009. It is believed that the discussion during the interview materially advanced prosecution of this application.

The substance of such discussion is adequately set forth in the Interview Summary of that same date. As such, further comment thereon appears unnecessary.

2. Discussion of Amendments

Pending independent claims 1 and 11 have been further revised to clarify the presently claimed invention. In this regard, each of claims 1 and 11 has been amended so as to clarify that each the sheath and core regions of the yarn includes a plurality or multiplicity of filaments. Thus, the present amendments to claim 1 and 11 clarify a feature that was already stated previously in the claims (i.e., by virtue of the plural form of the noun "filament"). In any event, that the sheath and core of the multifilamentary yarn according to the presently claimed invention includes multiple filaments can be found throughout the specification, for example at page 3, lines 11-19 and at page 4, lines 32-35.

Amendments to conform the pending dependent claims to their respective independent claims have also been advanced.

Therefore, following entry of this amendment, claims 1-4 and 10-15 will remain pending herein for consideration. Allowance of such claims is solicited.

3. Response to 35 USC §103(a) Rejection

The only remaining issue to be resolved in this application is the Examiner's rejection of prior claims 1-4 and 10-15 as allegedly "obvious" and hence unpatentable over D'Aversa et al (USP 6,090,116) in view of Schmitt et al (USP 6,669,706). As will become evident from the following discussion, neither publication is inappropriate as a reference against the pending claims herein.

Applicants note that D'Aversa et al discloses a knitted surgical mesh using monofilament or multifilament polypropylene yarns. D'Aversa et al further discloses that the yarn used to form the mesh may be formed from polyethylene.

Schmitt et al discloses a surgical mesh which can be knitted and is produced from multifilament yarns. In one embodiment, the multifilament yarns include bicomponent filaments wherein each filament is composed of a sheath and a core structure.

The Examiner alleges that it would have been obvious to the skilled person (35 USC §103(a)) to have used the yarns composed of a sheath and core of Schmitt et al in the multifilament of the knitted surgical mesh of D'Aversa et al and thereby arrive at the present invention. The Applicants respectfully disagree.

Firstly, as was noted during prior prosecution, Schmitt et al is directed to **bicomponent** filaments per se. This means that **each** filament 42 of Schmitt includes a core polymer component (noted by reference numeral 46 in Fig. 6 of Schmitt) and a contiguous outer sheath polymer component (noted by reference numeral 44 in Fig. 6 of

Schmitt). Such a bicomponent filament is quite different indeed from a yarn which itself is comprised of ***multiple filaments*** wherein (a) some filaments in the yarn are in a core region and show substantial no adhesion to one another (i.e., filaments that are not adhered to one another and thus can be easily separated), and (b) other filaments in the yarn are in a sheath region with such sheath filaments providing a substantially non-porous layer surrounding the core filaments. The latter attributes are of course those of the presently claimed invention and are nowhere taught or suggested by Schmitt et al.

Thus, while Schmitt et al does in fact acknowledge multifilamentary polyethylene yarns as being part of the prior art (i.e., via USP 3,054,406 and depicted in FIGS. 1 and 1a of Schmitt et al), there is still no disclosure or suggestion therein that such yarns have individual core filaments which show substantially no adhesion to one another and individual sheath filaments which provide a substantially non-porous layer surrounding the core filaments.

Thus, combining Schmitt et al with D'Aversa et al would not achieve the presently claimed invention. For at least these reasons, and the reasons already advanced during prosecution to date, all of the pending claims herein are patentably unobvious over the combination of D'Aversa et al and Schmitt.

Withdrawal of the rejection advanced under 35 USC §103(a) based on D'Aversa et al and Schmitt is therefore in order.

SNIJDER et al
Serial No. 10/537,895
April 8, 2009

4. Fee Authorization

The Commissioner is hereby authorized to charge any deficiency, or credit any overpayment, in the fee(s) filed, or asserted to be filed, or which should have been filed herewith (or with any paper hereafter filed in this application by this firm) to our Account No. 14-1140.

Respectfully submitted,

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